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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,072	07/11/2003	Brian Dentler	020375-007210US	3588
20350 7590 03/17/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER WONG, ERIC TAI WAI				
ART UNIT 3693		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/618,072

Applicant(s)

DENTLER ET AL.

Examiner

ERIC WONG

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-26 are pending. The following is a non-final second Office action on the merits of claims 1-26.

Response to Arguments

2. Applicant's arguments, see pages 7-8, filed 1/11/2008, with respect to the rejection(s) of claim(s) 1, 13, 18, and 24 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. Additionally, the rejections of claims 2-7, 9-11, 14-17, 19-23, and 26 under 35 U.S.C. 102 are withdrawn by virtue of their dependence on the independent claims. The rejections of claims 8, 12, and 25 under 35 U.S.C. 103 are also withdrawn by virtue of their dependence on independent claims 1 and 24. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.

3. Since Applicant did not challenge the Official Notice taken that determining whether a payment is a cash or cash-equivalent was old and well-known in the art at the time of invention, the limitation is now taken as Applicant admission of prior art. Examiner notes that newly found prior art Winking et al. (US Application Pub. No. US 2003/0167231 A1) also teaches the limitation (see paragraph 18).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Examiner's note: Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

4. Claims 1-5, 9-16, 18-21, 24, and 26 rejected under 35 U.S.C. 102(e) as being anticipated by Winking et al. (US Application Pub. No. US 2003/0167231 A1).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Regarding claims 1, 18, and 24, Winking et al. teaches retrieving a history of profile records for the credit account over a period of time preceding receipt of the payment each such profile record corresponding to a date within the period of time and including an account balance for the credit account on the date and a value of credited payments made towards the credit account on the date; and determining whether to float the payment from an analysis of the history of profile records (see paragraphs 24 and 25).

6. Regarding claims 2, 19, and 26, Winking et al. teaches indicating whether any prior payments are floating on the date (see paragraph 25). Examiner notes the reference as teaching floating payments and indicating the number of days since the last payment was applied to the credit account for the purposes fraud detection. Examiner asserts that the

indication of the number of days since the last payment was applied is equivalent to indicating whether any prior payments are floating on the date.

7. Regarding claims 3 and 20, Winking et al. teaches including the number of credited payments made towards the credit account within a time window preceding the date (see paragraph 24).
8. Regarding claims 4 and 21, Winking et al. teaches including a cumulative value of credited payments made towards the credit account within a time window preceding the date (see paragraph 25).
9. Regarding claim 5, Winking et al. teaches wherein the time window is at least as great as an expected time for the payment to clear. Examiner notes the reference teaches a 30 day time period (see paragraph 25). This is at least as great as an expected time for payment to clear, which is typically a few days.
10. Regarding claim 9, Winking et al. teaches considering the number of credited payments floated over the period of time (see paragraphs 24 and 25).
11. Regarding claim 10, Winking et al. teaches considering the number of credited payments made over the period of time (see paragraph 24).

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12. Regarding claims 11 and 15, Winking et al. teaches determining a fraction of the payment to float; and determining a time to hold a remainder of the payment (see paragraph 24).

13. Regarding claim 12, Winking et al. teaches determining whether the payment comprises a cash or cash-equivalent payment (see paragraph 24).

14. Regarding claim 13, Winking et al. teaches maintaining a history of profile records for the credit account, each such profile record corresponding to a date and including an account balance for the credit account on the date and an indication whether any prior payments are floating on the date; determining a new profile record in response to receipt of a payment towards the credit account or of a request for a charge against the credit account; adding the new profile record to the history of profile records; and determining whether to float a payment to the credit account from an analysis of the history of profile records (see paragraphs 24 and 25).

15. Regarding claim 14, Winking et al. teaches determining whether to float the payment (see paragraph 24).

16. Regarding claim 16, Winking et al. teaches analyzing a plurality of profile records retrieved from the history (see paragraph 24).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 6-8, 17, 22-23, and 25 rejected under 35 U.S.C. 103(a) as being obvious over Winking et al. in view of Official Notice.

18. Regarding claim 6, Winking et al. does not explicitly teach wherein the period of time has a length at least as great as an expected time for the payment to clear.

Official Notice is taken that credit histories spanning time periods at least as great as an expected time for a payment to clear, which is typically a few days, were old and well known in the art at the time of invention.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the determining whether to float a payment of Winking et al. with having the history of profile records for the credit account span a time period at least as great as an expected time for a payment to clear. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk that payments do not clear.

19. Regarding claims 7, 17, and 22, Winking et al. teaches analyzing a history of profile records to determine whether or not to float a payment but does not explicitly teach determining behavior scores.

Official Notice is taken that behavior scores were old and well known in the art at the time of invention, an example being FICO credit score.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the profile records of Winking et al. to include behavior scores. One skilled in the art would have been motivated to make the modification for the benefit of convenience.

20. Regarding claim 8, 23, and 25, Winking et al. does not explicitly teach developing a worst-case profile from the history of profile records.

Official Notice is taken that developing a worst-case scenario when evaluating a credit history was old and well-known in the art at the time of invention.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the determining whether to float a payment based on a history of profile records of Murphy et al. with developing a worst-case profile. One skilled in the art would have been motivated to make the modification for the benefit of reducing risk of payments not clearing.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC WONG whose telephone number is (571)270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Eric Wong
Examiner
Art Unit 3693

MAR 2008